

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: M. Noguchi, et al.

: Art Unit: 3751

Serial No.: 09/894,704

: Examiner: R. M. Fetsuga

Filed: June 28, 2001

: Appeal Notice Filed

FOR: WATER SHOWER APPARATUS

: February 6, 2003

APPEAL BRIEF

Assistant Commissioner for Patents

Washington, D.C. 20231

RECEIVED

APR 17 2003

TECHNOLOGY CENTER R3700

S I R :

Responsive to the Official Action dated October 23, 2002, Applicants are submitting this Appeal Brief for the above-identified Application.

I. REAL PARTY IN INTEREST

The real party in interest of the present Application is Matsushita Electric Industrial Co., Ltd., 1006, Oaza Kadoma, Kadoma-shi, Osaka, 571-8501 Japan.

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellants, the Appellants' legal representative, or the Assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF THE CLAIMS

Claims 40, 41, and 50-64 are pending. Claims 1-39, 48, and 49 have been cancelled.

Claims 56-64 have been rejected under 35 U.S.C. § 112, first paragraph.

Claims 40, 41, 49, 50 and 52-55 have been rejected under 35 U.S.C. § 102(b).

Claims 56-62 have been provisionally rejected under 35 U.S.C. §103(a).

Claims 63 and 64 have been indicated as "free of the prior art of record."

Claim 51 has been objected to but indicated as being allowable if rewritten in independent form including all the limitations of the base claim and any intervening claim.

Claims 42-47 have been withdrawn from reconsideration.

IV. STATUS OF AMENDMENTS

The present Application is under final rejection. An Amendment was filed under 37 C.F.R. § 1.116 on February 6, 2003. An Advisory Action dated February 24, 2003 indicates that the aforementioned Amendment "will be entered." All other Amendments have been entered. There are no other pending unentered amendments.

V. SUMMARY OF THE INVENTION

The present invention relates to a water shower apparatus. As shown in Fig. 10, a main body including a back cover (57) is positioned behind a back of a bather. A plurality of arms (51a), (51b) are included (Specification, page 49, line 7). These arms are supported so that they move, namely, they are movable towards and away from each other. In other words, the path of these arms widens (Specification, page 52, lines 21-23). As is apparent from Fig. 11, the width of positions where the arms are supported is narrower than the breadth of shoulders of the bather (see also Specification, page 24, lines 18-19).

In an alternative embodiment of the present invention, nozzles spray a substantially flat spray of water in a substantially vertical plane (Specification, page 10, bottom line; page 12, line 8).

VI. ISSUES

Whether the disclosure and specification should be objected to.

Whether claims 56-64 should be subject to rejection under 35 U.S.C. § 112, first paragraph.

Whether claims 40, 41, 50 and 52-55 should be subject to rejection under 35 U.S.C. §102(b).

Whether claims 56-62 should be subject to rejection under 35 U.S.C. §103(a).

VII. GROUPING OF THE CLAIMS

Claims 40 – 47, 50 and 52-55 stand together for purposes of this appeal.

Claims 56-64 stand together for purposes of this appeal.

VIII. ARGUMENT

In paragraph 4 of the Final Rejection, the disclosure was objected to because of various informalities. Several suggestions were made in the Official Action regarding amending the specification from "27" to --27A--, changing "Fig. 6" to --Fig. 3--, and changing "nozzle 6" to --nozzle 15--. Referring to Fig. 4, discharge port 27 is shown extending from the right side of combination faucet 20. Selecting knob 25 switches between discharge port 27 and discharge port for wash place 28. Although the specification has been appropriately amended, the Advisory Action, did not provide any indication that Appellant's amendments have overcome the objection. Notwithstanding the lack of response, Appellants maintain that the objection has been overcome and should be withdrawn.

Claims 40, 41, 49, 50, and 52-55 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Yoshita. Specifically, the Official Action argues that Yoshita discloses:

. . . said arms are movable towards and away from each other.

Furthermore, the Official Action made specific reference to Yoshita Fig. 31 and Yoshita column 8, line 62-64. Appellant's representative has reviewed Yoshita at the aforementioned Figure and lines. Appellant's representative does not see where these arms are movable towards and away from each other. Accordingly, reversal of this rejection of Appellant's claims is respectfully requested.

Claims 56-64 have been rejected under 35 U.S.C. § 112, first paragraph. Specifically, the Official Action indicated that the phrase "a substantially flat spray of water in a substantially vertical plane" was not supported by the original disclosure. This rejection is respectfully traversed. Note page 10, bottom line ("a flat spray shape"), page 10, bottom line ("a shower in the form of a fan-shaped thin film"), page 12, line 8 ("the spray pattern of the second spray nozzle is about vertical"). Thus, the specification as originally filed makes specific reference to a flat spray of water in a vertical plane. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 56-62 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Yoshita and J.P. 10-028656. The Official Action acknowledged that Yoshita does not teach the nozzle spray shape. Due to this deficiency in the Yoshita reference, the Official Action combined Yoshita with J.P. 10-028656 (hereafter '656). The Official Action then referred to nozzles 45, 46 and 48 and stated that these nozzles produce:

. . . a substantially flat spray of water in a substantially vertical plane . . .

Appellants do not understand how this conclusion was reached. The only details regarding nozzles in the '656 reference are illustrated in Figs. 2, 6,

and 7 of that reference. Figs. 2 and 7 show that the nozzles have a rotator or "spinner" which spins as the water sprays out. Furthermore, Fig. 16 of the '656 reference very clearly shows how the water which is sprayed outward is sprayed in a circular pattern. Thus, it is not understood how the Official Action is able to conclude that the prior art nozzles produce a flat spray of water in a substantially vertical plane. Accordingly, reversal of the rejection of those claims is respectfully requested.

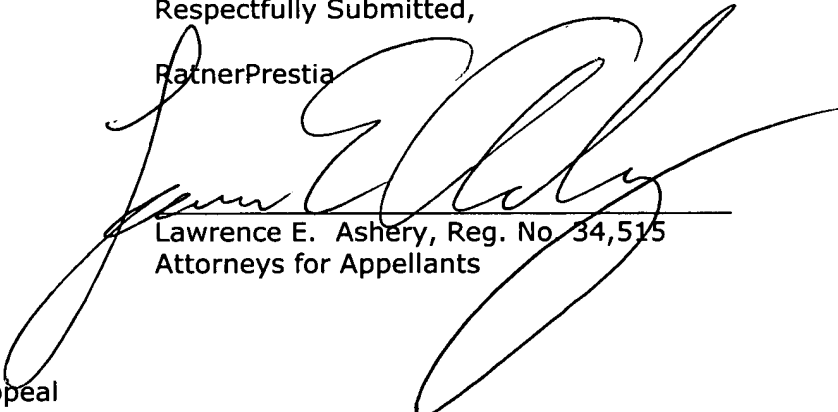
The remaining objections and rejections which appear in the outstanding Final Official Action have been rendered moot by the cancellation of the appropriate claims.

For the reasons set forth above, the above-identified application is in condition for allowance which action is respectfully requested.

In accordance with 37 C.F.R. § 1.192(a), this Appeal Brief is being submitted in triplicate. Also enclosed is the fee for filing an Appeal Brief under 37 C.F.R. § 1.17(c) in the amount of \$320.

Respectfully Submitted,

RatnerPrestia



Lawrence E. Ashery, Reg. No. 34,515
Attorneys for Appellants

LEA/ds

Enclosure: Claims on Appeal

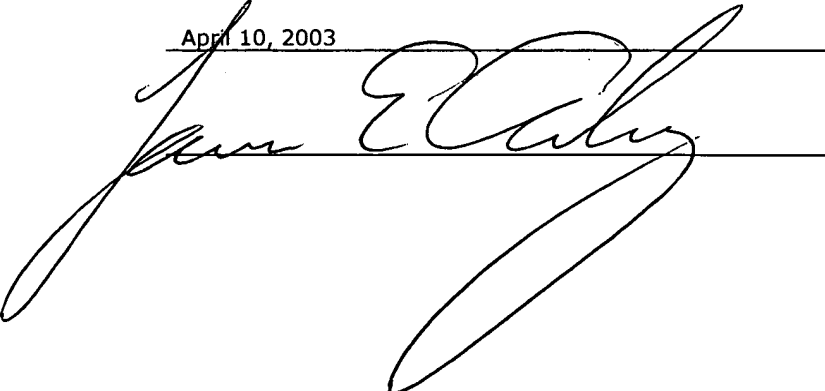
Dated: April 10, 2003

Suite 301
One Westlakes, Berwyn
P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

The Assistant Commissioner is hereby authorized to charge payment to Deposit Account No. **18-0350** of any fees associated with this communication.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on:

April 10, 2003



APPENDIX A – CLAIMS ON APPEAL

40. A water shower apparatus comprising:
- a main body positioned behind a back of a bather,
- a plurality of arms supported movably on said main body, and
- a spray nozzle on each of said arms for spraying water,
- wherein said arms are movable towards and away from each other, and a width of positions where said arms are supported by said main body is narrower than a breadth of shoulders of the bather.
41. The water shower apparatus according to claim 40,
- wherein each of said arms has a curved shape.
42. The water shower apparatus according to claim 40,
- wherein each of said arms has an articulation means, the articulation means is installed at either the root or on the way of said arm.
43. The water shower apparatus according to claim 40,
- wherein each of said arms has a rotational joint means, the rotational joint means is installed at either the root or on the way of the arm.
44. The water shower apparatus according to claim 40,
- wherein each of said arms has an extension and contraction means.
45. The water shower apparatus according to claim 40,
- wherein each of said arms has a driving means, and said arms move to a desired position with a drive of the driving means.

46. The water shower apparatus according to claim 45,

wherein the driving means has a mechanism for driving the tip of said arm, with the acting force of the fluid pressure.

47. The water shower apparatus according to claim 45,

wherein the driving means has an electric motor, and the electric motor has a mechanism for driving the tip of said arm.

50. The water shower apparatus according to claim 40

wherein said arms are received at the main body in narrower area than a breadth of shoulders of the bather and are movable to a position wider than the breadth of the shoulders when in use.

51. The water shower apparatus according to claim 40,

wherein the main body has a concave-shaped front cover.

52. The water shower apparatus according to claim 40

wherein each of said arms has a plurality of the spray nozzles, and respective spray nozzles of said each arms have different spraying patterns.

53. The water shower apparatus according to claim 52

wherein the spray nozzles have a first spray nozzle spraying in the area from about the knee to the feet of said bather, a second spray nozzle spraying in the area from about the abdomen to the chest of said bather, and a third spray nozzle spraying toward about the shoulders of said bather.

54. The water shower apparatus according to claim 52

wherein when the spraying angle of said first spray nozzle is "C", the spraying angle of said second spray nozzle is "D", and the spraying angle of said third spray nozzle is "E", the spraying angles of said respective spray nozzles are in the relation of $C < D < E$.

55. The water shower apparatus according to claim 52

wherein said plurality of spray nozzles have at least one selected from the group consisting of a direct spray nozzle, a fan-shaped spray nozzle having a small spray angle, a slewing spray nozzle, and a wide-angle spray nozzle.

56. A water shower apparatus comprising:

a plurality of arms movable to a showering position and spraying water from a water source,

a plurality of first spray nozzles for receiving water from said water source and spraying a substantially flat spray of water in a substantially vertical plane.

57. The water shower apparatus according to claim 56,

wherein the first spray nozzles spray water towards a bather.

58. The water shower apparatus according to claim 56,

wherein the first spray nozzles spray water towards both side of a bather.

59. The water shower apparatus according to claim 56,

wherein the first spray nozzles spray water towards the front face of said bather.

60. The water shower apparatus according to claim 56,

wherein the plurality of the first spray nozzles are placed on the plurality of the arms, respectively.

61. The water shower apparatus according to claim 56,

wherein the main body positioned behind the back of a bather.

62. The water shower apparatus according to claim 61,

wherein the first spray nozzles are placed on the main body.

63. The water shower apparatus according to claim 61, further comprising:

a second spray nozzle for spraying water in a flat shape substantially horizontally,

wherein the second spray nozzle is placed in the center at the top of the main body and the first spray nozzles are placed on both side of the second spray nozzle.

1 64. The water shower apparatus according to claim 63,

2 wherein the second spray nozzles have a spraying angle narrower than that of
3 the first spray nozzle.